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fundamental than that in bilateral contracts both parties must be bound or neither * * *." That may be so but the assertion is ventured that, at this stage in our investigations, the proposition as stated is a pure assumption and it is unfortunately made because, if accepted, further inquiry ceases. Nothing so fundamental can be assumed. The cases must be examined. If we recall that in our law parties to a contract do not litigate their relations each to the other simultaneously, we should not be surprised to find what is the fact, viz., the decisions do not make this a closed issue regardless of the generalities indulged in by the courts and text-writers. A single line of inquiry is suggested. Dividing a normal or usual acceptance into its factual elements we have: (a) a state of mind of assent, (b) an external act, (c) expressive of that state of mind, (d) of such a character as to come to the knowledge of the offeror. Advancing from a to d, what is the minimum necessary to render the transaction legally operative if (1) the offeree is suing the offeror, (2) if the parties to the action are reversed?⁴ May the offeree vary from the offer as to (b), (c), and (d) according as he is suing or is being sued?⁵

No attempt has been made here to give even a partial catalogue of the cases in which it is material to determine (1) whether the test is objective as to both parties and (2) whether in bilateral contracts the groups of facts operative to bind the two parties are identical. No answers to these two questions are proposed. They are merely raised with a protest against assuming their answers.

Law students and the legal profession are deeply indebted to Professor Williston for his giving them the results of his long and careful investigations. His work abounds in sane and well-matured conclusions richly rewarding his great industry, patience and thoroughness.

HERMAN W. OLIPHANT.

University of Chicago Law School.

TIFFANY ON REAL PROPERTY (three volumes), by Herbert Thorndyke Tiffany, of Baltimore, Maryland. Chicago, 1920. Callaghan & Company. Pp. xxxii, 3666.

The ordinary textbook in law which is really only a statement of the result of the cases is theoretically easy to write. The industry and patience to examine a large number of cases and the ability to use understandable English are the necessary qualities. There are, however, all too many of these ordinary textbooks. Only occasionally do we find a writer rising noticeably above the disappointingly common mediocrity. There are too few Wigmores, Willistons, and Salmonds.

The writer of the noteworthy text must, of course, have the qualities mentioned—industry and ability to write,—but he must have something more. The ordinary writer can tell what the cases decided, the unusual writer does

⁴ The author's criticism of *Hallock v. Commercial Insurance*, 26 N. J. L. 268, for example, does not consider the fact that in that case the offeror was suing the offeree.

⁵ See for example *Wheeler v. Klaholt*, 178 Mass. 141.

not only that but he draws sound inferences; the former makes use of the cases, but the latter understands the historical, economic, social, etc., background and is familiar with the literature and thought upon the subject; the former merely states results, the latter also weighs and tests them. The busy lawyer who is looking for "a case" may prefer the ordinary book—he uses it as a digest, but the lawyers and judges who play the largest part in shaping our law will trade a shelf full of such ordinary books for the one that has that additional something which makes it a real contribution to legal literature.

It was in 1903 that Professor Tiffany published the first edition of his *Real Property*, a work in two volumes with 577 sections and 1323 pages. Although this book fell short of the really remarkable contributions to legal literature it was clearly one of the very best of the second class. The arrangement which was essentially that of Gray's *Cases on Property* was very good and for conciseness and clarity of expression it would be hard to equal. This quality made it a popular students' book. The cases cited were to the point, and they were in sufficient number to make the book useful to practicing lawyers.

In 1910 Professor Tiffany published his well known work on *Landlord and Tenant*, a really remarkably good book, one which in the reviewer's opinion is well entitled to rank with the best published in the last two decades. It is so much superior to the rest of the American works on the same subject that there is no basis for comparison. The author therein not only stated the result of the cases in his characteristic, clear style but he also critically examined and discussed their conclusions and the doctrines announced by the courts.

The quality of the first edition of the *Real Property* and the excellence of the *Landlord and Tenant* led all students of the subject to look forward with no little anticipation to the announced second edition of the *Real Property*. By some it may be doubted whether this new edition is quite up to the reasonable expectations aroused by these earlier works. It is quite likely that the book suffers by reason of its being merely a *new edition*; the form had already been cast.

To say that it is not equal to the *Landlord and Tenant*, however, is not to condemn it. On the contrary this new edition is an extremely valuable addition to *Real Property* literature. It is the old book brought down to date with additional citations and discussion and something more. In many instances the content of the first edition is revised or amplified in the light of the later cases and the author's further reflection, and in the notes references are to be found to the wealth of material in the various legal periodicals, material not usually found by the practitioner. This is one of the most valuable features of the new edition. The additions and amplifications have extended the work to 677 sections and 3666 rather large sized pages; approximately thirty thousand cases are cited. The disappointment of the reviewer is not that the work falls short of being excellent, but that it does not come quite up to the expectations aroused by the author's own work on *Landlord and Tenant*. Unquestionably the present book is by far the best general text on the subject of *Real Property*.

It is of course obvious that in a work covering so large a field as Real Property and of a size so large as the one under review the captious critic can point to errors in statement and omission and to failures to refer to certain authorities. Professor Tiffany's book is no exception. The errors, however, are few and relatively unimportant. Naturally there will be differences of opinion in many instances as to the soundness of positions taken by the author. But who could write a book as to which this would not apply?

This review should not close without a word of appreciation of the work of the publishers. The three volumes though containing over thirty-six hundred pages are not unwieldy, the paper being thin. The pages are pleasing to the eye and easy to read. All in all we feel the author and publishers are to be congratulated.

RALPH W. AIGLER.